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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In The Matter of	
Administration of the North American Numbering Plan Carrier Identification Codes (CICs)	**CC DOCKET NO. 92-237**

REPLY COMMENTS OF THE TELECOMMUNICATIONS RESELLERS ASSOCIATION

The Telecommunications Resellers Association ("TRA"), through undersigned counsel and pursuant to Section 1.429(g) of the Commission's Rules, 47 C.F.R. § 1.429(g), hereby responds to comments filed by other parties on pending petitions for reconsideration ("Petitions") of the Second Report and Order, FCC 97-125 ("Order"), released by the Commission in the captioned docket on April 11, 1997.[1]

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[1] Comments were filed by AT&T Corp. ("AT&T"), America's Carriers Telecommunications Association ("ACTA"), Cable and Wireless, Inc. ("C&W"), CGI and CommuniGroup (collectively, "CGI"), Long Distance International ("LDI"), Sprint Communications Company, L.P. ("Sprint"), Thrifty Call, U S WEST, Inc. ("U S WEST") and WorldCom, Inc. ("WorldCom"). TRA notes that to the extent that the AT&T submission "seeks clarification . . . that the two carrier identification code limit will be eliminated at the end of the transition period," it constitutes an untimely Petition for Reconsideration not properly before the Commission. To the extent the Commission does consider AT&T's request, TRA urges it to bear in mind the impact on small carriers of allowing large carriers such as AT&T to utilize large numbers of carrier identification codes ("CIC"), thereby speeding code exhaustion. The Commission has recognized the importance of establishing "a reasonable way to ensure that future demands for CICs could be met." (Order, CC Docket No. 92-237, FCC 97-125 at ¶ 2). To the extent AT&T or any other entity requires more than two CICs, the Commission's waiver process remains available to address the merits of the request on a case-by-case basis. In recognition of the finite number of available CICs, however, the Commission should be reluctant to allow large numbers of CICs to be freely distributed to any large carrier upon a simple request absent a demonstration of actual need.

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Most of the commenters agree with the petitioners that the Order's drastic reduction from the originally proposed six years to effectively a period of less than nine months for the transition from 3-digit to 4-digit carrier identification codes ("CICs") and from 5-digit to 7-digit carrier access codes ("CACs") will have serious adverse consequences for carriers and consumers alike. Among the difficulties identified in the comments are (i) the inability to accomplish equipment upgrades prior to the January 1, 1998 deadline, (ii) the continuing unavailability of 4-digit CIC capability in many end office switches operated by smaller local exchange carriers ("LECs"), and (iii) the absence of a distinct LEC switch upgrade deadline significantly prior to the close of the transition period. This last shortcoming effectively mandates a "flash-cut" conversion to 7-digit CACs and all but precludes effective consumer education efforts.

In its comments, TRA urged the Commission to avoid unnecessarily burdening carriers and consumers simply by extending the close of the transition period, while at the same time maintaining the January 1, 1998 deadline as the date by which 4-digit CIC capability must be provided in all end office switches. TRA, accordingly, urges the Commission here to reject U S WEST's claim that additional time is not required to prepare for the transition from 3-digit to 4-digit CICs and from 5-digit to 7-digit CACs and to dispense with AT&T's contention that LEC switch upgrades "should not be regarded as a prerequisite to ending the transition period."

Contrary to U S WEST's assertions, the concerns cited in the Petitions, far from being formed "in a vacuum", are the product of daily commercial reality for many interexchange carriers ("IXCs"). U S West, standing alone among the commenters, turns an intentionally blind eye toward the practical and economic burdens the Order creates for IXCs. As Cable & Wireless, points out, "CWI will be forced to send technicians to the offices of each and every customer with a CWI provided dialer in order to reprogram the dialers to the new access code. . . [T]o complete this transition in less than nine months will be technically and economically burdensome."[2] WorldCom notes that its "technicians have encountered a number of areas where the local exchange carrier is not capable of accepting the seven digit CAC, and the record in this proceeding indicates a number of smaller carriers have not yet begun to convert their switches. This has hindered WorldCom's efforts to reprogram dialers through a systematic national program."[3] U S West's willful blindness notwithstanding, the commenters' evidence of real-world experiences clearly demonstrates that IXCs are diligently pursuing, yet encountering serious difficulties in their attempts to upgrade or replace existing equipment before the January 1, 1998 deadline.

U S West also flippantly dismisses as frivolous petitioners' concerns regarding the unavailability of 4-digit CIC functionality in end office switches. Since U S West is "not in that universe" of LECs which "will be unable to meet the conversion dates in their switches",[4] U S West also perceives this as a nonissue. To the contrary, as demonstrated below, the technological conversion of LEC switches goes to the very heart of the Order's transition mandate, for without 4-digit CIC capability, there can be nothing to transition to.

U S West's comments in this regard reveal a remarkably egocentric worldview. The only relevant concern, according to U S West, is that unequal dialing treatment, which "would only allow an anticompetitive situation to continue to the detriment of new long distance

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2 Comments of Cable & Wireless, Inc. at 3.

3 Comments of WorldCom at 2.

4 Comments of U S West at 4.

entrants"[5] must be eradicated immediately, no matter what the cost to IXCs or the public generally. In other words, if U S West must enter the long distance market burdened with a 4-digit CIC, so must everyone else.

TRA finds refreshing U S West's recognition of the principles of competitive equality. However, the anticompetitive dangers here do not approach the compelling dimensions asserted by U S West. The Commission is fully aware that "because customers of some carriers may need to dial seven digit CACs while those of other carriers may dial five digit CACs, there will be disparity."[6] The Commission has nonetheless determined that

> "the transition does not violate Section 201(b)'s prohibition against unreasonable practices or Section 202(a)'s prohibition against unreasonable discrimination. The transition is reasonable and necessary to avoid a flash-cut conversion to four digit CICs which would be *contrary to the public interest*."[7]

TRA is in agreement with the Commission that whenever possible competitive disparities should be remedied swiftly, but not so impetuously as to create a host of more serious consequences. As the comments of TRA and others have stressed, the Order has inadvertently set the stage for the "flash-cut conversion" which the Commission has held would be "contrary to the public interest". A modest extension of the transition period would not disproportionately harm U S West or the numerous other carriers which have entered, or soon will enter the long distance market with a 4-digit CIC. On the other hand, strict adherence to the January 1, 1998 deadline will likely result in the inability of significant numbers of consumers to complete long distance calls on a "dial-around" basis after that date. Consumers may experience call blocking

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5 Comments of U S West at 4.

6 Order, CC Docket No. 92-237, FCC 97-125 at ¶ 32.

7 Id.

because equipment upgrades or replacements could not be completed within the span of months between the release of the Order and its ultimate effectiveness. Consumers may also experience call blocking because a routing mechanism which functioned perfectly merely a day before has become inoperative and the Order does not provide the customary buffer period during which consumers may adjust.

In its comments, AT&T suggests that "upgrading of all LEC switches . . . should not be regarded as a prerequisite to ending the transition period."[8] TRA ardently disagrees. The Commission should dispel any doubt that the availability of 4-digit CIC technology in all end office switches is indeed an indispensable prerequisite to closing the transition period. As TRA noted in its comments, the establishment of a single deadline allows LECs to avoid providing 4-digit CIC functionality until the very day the transition period closes. In its current form, the Order virtually forecloses any meaningful opportunity for IXCs to engage in consumer education efforts and creates the likelihood that for a certain period of time beyond the January 1, 1998 deadline, consumers will be unable to complete "dial-around" calls. Permitting the transition period to close without first requiring the technological readiness of LEC switches would immeasurably increase both the potential for and the duration of disruption of consumer calls and totally frustrate the structure and purpose of the Order. In essence, AT&T asks the Commission to construe the Order in such a fashion that a transition is mandated but the existence of something to transition to is not.

TRA agrees with AT&T that "small LECs that claim it is not economically feasible to upgrade their switches by the end of the transition period would be free to seek a

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8 Comments of AT&T at 4.

waiver from the Commission."[9] Any party may seek a waiver of the Commission's rules under appropriate circumstances. TRA wishes to take this opportunity to highlight, however, the serious consequences which will flow from each such waiver granted by the Commission. Any switch which is incapable of processing "dial-around" calls directly impacts the ability of IXCs to serve customers because consumers will be denied the ability to complete long distance calls on a "dial-around" basis from that switch. Each LEC which is absolved of the obligation to convert its switches will exacerbate this problem. Accordingly, any request by a LEC seeking waiver of the obligation to provide 4-digit CIC capability should be scrutinized very carefully by the Commission and any relief granted should reflect the compelling circumstances demonstrated.

By reason of the foregoing, the Telecommunications Resellers Association urges the Commission to extend the transition period during which 3-digit and 4-digit CICs may be utilized simultaneous and to require the implementation of 4-digit CIC capability at all end office switches by no later than January 1, 1998.

Respectfully submitted,

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[9] Id.

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